February 2022

In Sight

a quarterly pensions publication

This quarter's round-up

Regular features

New transfer regime in force

New legislation on statutory transfers came into force on 30 November 2021, intended to assist in the fight against pension scams. Trustees are now required to block pension transfers where prescribed conditions are not met.

Powers under the Pension Schemes Act 2021 allow for payment of transfers to be prevented and new regulations specify the conditions. Transfers to certain types of scheme representing a low risk can proceed without further checks. This applies for transfers to public service schemes, authorised master trusts and authorised CDC schemes. In addition, the Pensions Regulator's guidance explains that trustees may wish to maintain a *clean list* of low-risk personal pension schemes for which it may determine that a transfer can proceed without the need for additional checks.

Continued on next page

For all other transfers, trustees will need to determine whether any red flags or amber flags are present. The analysis required for assessing whether an amber flag is present includes consideration of proposed investments and charges. Trustees have discretion to request additional information to assist with this analysis. Where they consider that they already have enough information to decide that the red flags and amber flags are not likely, on the balance of probabilities, they can proceed to make that decision without seeking further evidence or information from the member. However, if a member fails to demonstrate an employment link for a transfer to an occupational pension scheme or fails to demonstrate proof of residence (or an employment link) for an overseas transfer, this will result in an amber flag. In addition, if a member fails to provide the required information or evidence of obtaining guidance (as relevant) this would result in a red flag.

The outcome of the trustees' analysis will lead to one of three conclusions:

- **Red flag** – the transfer should not proceed.
- **Amber flag** – the transfer can only proceed when the member has taken specified scams guidance from MoneyHelper.
- **No flag** – the transfer can proceed.

Action

Trustees should ensure that their processes comply with the new requirements.

Pension Schemes Act — state of play

Many of the provisions of the Pension Schemes Act 2021 are now in force, with several sets of regulations in place along with Pensions Regulator publications. This is the current state of play:

Topic	Consultation and regulation timing	Measures are (*or expected to be*) in force
Climate change governance and reporting	New requirements in force. The Pensions Regulator has published supporting guidance (see the November edition of In Sight and page 5).	1 October 2021 for largest schemes 1 October 2022 for schemes with assets over £1 billion
New criminal offences	Two new criminal offences have been introduced. The Regulator has published its policy on investigation and prosecution of these (see the November edition of In Sight). A related consultation ran until 22 December 2021, containing draft enforcement policies (see November edition).	1 October 2021
New powers for the Pensions Regulator	Revised code of practice 12, reflecting the new tests for issuing a contribution notice, is now in force (see the November edition of In Sight).	1 October 2021 (code came into effect 25 November 2021)
Limiting transfer rights to help prevent pension scams	Regulations are in force (see page 1).	30 November 2021
Extended notifiable events framework	Consultation on draft regulations closed 27 October 2021 (see the November edition of In Sight).	*Expected April 2022*
CDC scheme framework	Regulations have been laid before Parliament. The Regulator is expected to consult on a draft code of practice shortly — see page 3.	*1 August 2022*
Scheme funding — including statement on long term funding and investment strategy	Consultation in the spring (on regulations, with a separate consultation to follow in late summer on the related details of the code of practice) — see page 3.	*Not expected to be in force before 2023*
Pensions dashboards	Consultation on draft regulations expected early 2022 (latest news on dashboards on page 3).	*Delivery promised for 2023*

CDC regulations finalised

Following consultation, new regulations will come into force on 1 August 2022 that include details on the framework for collective money purchase schemes — more commonly referred to as CDC (or collective defined contribution) schemes. As reported in the August edition of In Sight, these regulations build on the provisions in the Pension Schemes Act 2021.

The Pensions Regulator will be responsible for the authorisation and ongoing supervision of CDC schemes and it is expected to consult on a draft code of practice for CDC shortly.

The CDC regime will initially apply to single or closely associated employer CDC schemes, such as the CDC scheme proposed by the Royal Mail. However, the government's consultation response confirms that it has been encouraged by the level of interest in other forms of CDC — such as decumulation vehicles, commercial master trusts and industry-based multi-employer schemes — and it will continue to work with interested parties on how to facilitate other forms of CDC provision.

Pensions dashboards

From 2023 onwards, once a scheme reaches its staging date it will need to comply with new legislative duties for pensions dashboards. Ahead of this, one decision schemes need to make is how they want to digitally compare and match 'find requests' from dashboard users with the member records they hold.

The Pensions Administration Standards Association (PASA) has published initial guidance on the choice of data matching convention (DMC) to help schemes with this decision. PASA explains that the trustees' choice of matching will depend on the accuracy of the personal data they hold across all of their deferred and active member records. Therefore, schemes should review the various options set out in the guidance and consider the most appropriate option for them.

Based on current practice, PASA notes that many schemes will decide to match on the basis of surname, date of birth and National Insurance Number. However, simple matching on these three core data elements will only produce robust positive matches where schemes believe they are successfully validating the accuracy of all such data across all their records.

Some schemes may add further data elements such as forename, but this might not increase confidence in matching correctly or may reduce the positive matches the scheme makes.

The DWP is due to consult shortly on draft dashboards regulations, and supplemental PASA guidance will follow.

Action

Progressing data quality and dashboard readiness should be a priority for all schemes.

DB funding code delayed

Release of the draft revised funding code of practice, which is the second part of the Pensions Regulator's consultation on a new defined benefit (DB) funding framework, has been pushed back until late summer 2022. It was previously expected that the draft code would be issued for feedback towards the end of 2021.

The DWP is expected to consult on draft funding and investment regulations under the Pension Schemes Act 2021 in spring 2022, and the Regulator will consider feedback from that before issuing its own consultation.

The changes will be forward-looking, meaning that the new code will affect scheme valuations with effective dates on or after the code's commencement date.

Taxation

Increasing NMPA to 57

The normal minimum pension age (NMPA) is the earliest age at which pensions and lump sums may be drawn from a registered pension scheme without incurring unauthorised payments charges, except for ill-health and transitional cases. It increased from 50 to 55 on 6 April 2010. A further increase from 55 to 57, taking effect on 6 April 2028, was originally announced in 2014 and then confirmed in 2020. The Finance (No 2) Bill 2021/22, published shortly after the Autumn Budget, includes the legislation to implement this increase.

The Bill provides for protections for registered pension schemes (including personal pensions) whose rules on 11 February 2021 (the date on which the government originally began to consult on the implementation of the NMPA increase) gave an unqualified right to take pension benefits below age 57. The protection will apply to those who were members of such arrangements on 3 November 2021 (and those who had initiated a transfer to such a scheme by that date). The proposal (set out in the August edition of In Sight) to allow a window until April 2023 for people to join a pension scheme offering pension age protection has been removed; in a written statement, the government explained that this was due to concerns about possible adverse impacts on the pensions market and on pension savers.

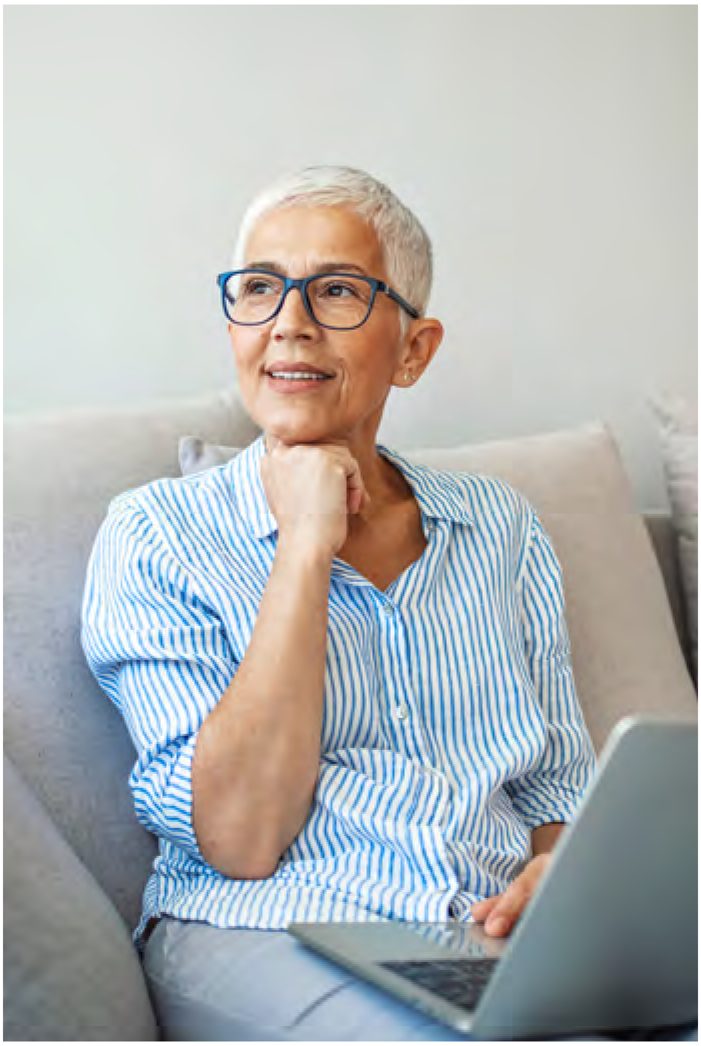
Pension age protection can be retained in a range of circumstances on transfer.

HMRC will provide guidance and examples about the meaning of having an unqualified right under the scheme rules. Its policy intention is that where rules expressly state that benefits can be drawn from age 55, this would amount to an unqualified right; but where they refer to NMPA or the underlying legislation (the Finance Act 2004), this would not give rise to a protected pension age. However, it acknowledges that there will be cases requiring legal advice.

The government has said that in due course it will provide further guidance on transitional arrangements for members without a protected age — for example for individuals aged between 55 and 57 on 6 April 2028 who, by that date, have started but not completed the process of taking pension savings.

Action

Trustees should assess how the change (and any protections) will impact their scheme, and should consider amending communications to note the change, so that members have ample warning and are aware of any protected pension age.

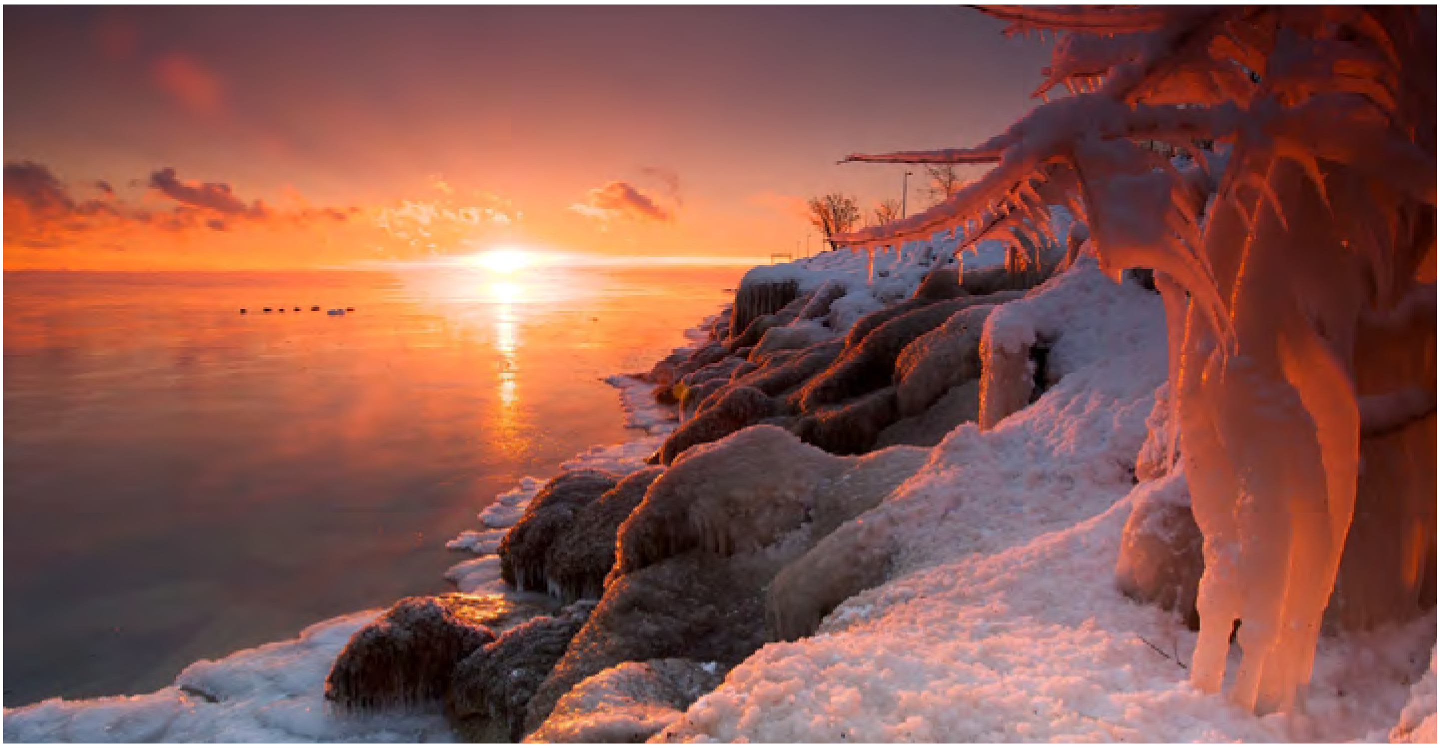


Tax relief for lower earners

It was announced in the Autumn Budget that in 2025/26 low-earners will start to receive top-up payments in respect of any contributions they have made into pension schemes using a net pay arrangement (NPA), for the tax year 2024/25 onwards.

The government is introducing this new system in a bid to address the anomaly between those saving into an occupational pension scheme (using NPA) and those saving into a personal pension scheme using relief at source (RAS). At present, individuals not paying income tax can still receive a top-up to their contributions — akin to tax relief — under RAS but not under NPA.

The government intends to proceed with a variant of one of the methods put forward in its earlier call for evidence, which was to pay a bonus based on Real Time Information (RTI) data. This variant involves making changes to HMRC's PAYE reconciliation process and will require significant HMRC IT changes. There will be no change to how individuals save into pension schemes, and no change to their take-home pay or pension contributions. Affected individuals will be notified by HMRC that they are eligible for a top-up and invited to provide details to HMRC, so that it can make the payment to the individual in the following tax year.



Responsible investment

Regulator's guidance on climate change

The Pensions Regulator has published a final version of its guidance on *Governance and reporting of climate-related risks and opportunities*. The guidance is aimed at trustees of those schemes required to meet the new climate governance requirements in line with the 11 recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) and to report on how they have done so. However, the Regulator says that trustees who are not subject to these requirements might wish to follow it and could consider applying those aspects of the guidance they feel are likely to have the most impact on their scheme.

The guidance is split into the following sections:

- Background
- Governance
- Strategy and scenario analysis
- Risk Management
- Metrics
- Targets
- Publishing your report

Within each section the Regulator sets out the kinds of steps it expects trustees to take and report on, giving practical examples of ways they can comply with the regulations.

The Regulator has also updated its monetary penalties policy to include a new appendix that sets out its approach to penalties for non-compliance with the TCFD regulations.

Action

Trustees of schemes required to comply with the requirements – those schemes with relevant assets exceeding £5bn (or £1bn from 1 October 2022), master trusts and CDC schemes — should review the guidance to assist with compliance; trustees of other schemes are encouraged to consider applying those aspects of the guidance likely to have the most impact on their scheme.

Climate adaptation reports

The Regulator has published its *Climate adaptation report*. This is its contribution to the National Adaptation Programme, which aims to harness a wide range of evidence and analysis to propose actions for the UK government and others to adapt to the challenges of climate change in the UK.

The Regulator's report sets out the risks from climate change that are most relevant to occupational pension schemes and the approaches it is taking to tackle them, both as a regulator and as an organisation. The Regulator says too few schemes give enough consideration to climate-related risks and opportunities, which means investment performance and saver outcomes could suffer, although this situation is improving.

The Financial Conduct Authority (FCA) and Prudential Regulation Authority have also published reports relating to the firms that they regulate.

FCA publishes TCFD rules for pension providers

On 1 January 2022, the FCA introduced new rules and guidance on climate-related disclosures when managing investments. This applies to pension providers, asset managers and other asset owners regulated by the FCA (such as personal pension providers).

Stronger nudge to pensions guidance

The DWP is introducing regulations from 1 June 2022 that will require trustees to nudge members towards pensions guidance before they take flexible benefits (broadly money purchase or cash balance benefits).

When an individual applies to draw or transfer their pension, the trustees must refer them to Pension Wise, explain the nature and purpose of the guidance and offer to book an appointment. Before proceeding with the member's application, the trustees must check that the individual has received guidance or made an active choice to opt out. There are some exemptions, including transfers in respect of members under age 50.

The measures are intended to improve take-up of Pension Wise guidance. A recent blog from the Pensions Regulator welcomes the initiative and highlights the importance of these appointments. The Regulator plans to produce its own guidance ahead of the new duties coming into force to help trustees and administrators prepare for the changes.

The FCA is introducing similar changes for contract-based schemes, also from 1 June 2022.

Action

Trustees should ensure that their processes are updated to comply with the new requirements.

Changes to the DC charge cap

From 6 April 2022 a de minimis level will apply to DC pots, below which the flat fee element of a combination charge cannot be charged to members. The amended regulations will apply to small pots in default arrangements of DC schemes used for auto-enrolment.

Where the charge in default funds is simply a percentage of the pot value, the DC charge cap is 0.75% of funds under management (FUM). A combination charge structure is one where a lower percentage of FUM is charged, as well as either a flat fee or a percentage charge on new contributions. This de minimis pot size of £100, below which a flat fee cannot be charged, will apply to all active and deferred members' pots. The DWP has updated its charge cap guidance for trustees to reflect this change. The £100 level will be kept under review, with any future changes considered alongside potential solutions to the proliferation of small pots.

In its consultation on this change, the DWP also asked for views on moving to a universal charging structure for default funds. This would allow only a single percentage annual management charge, with combination charging no longer permitted. The DWP has not yet published a detailed response to this part of the consultation. It will publish this, and its proposed next steps, shortly.

Separately, as announced in the Autumn Budget, the government consulted until 18 January on further changes to the charge cap. It has proposed excluding well-designed performance fees from the cap, as a way to allow schemes to take advantage of long-term, illiquid investment opportunities. New legislation was introduced from October 2021 allowing trustees to smooth performance fees over a period of 5 years when testing against the cap, but there is some concern that these changes do not go far enough. If this further change proceeds, the aim is to consult on draft regulations early this year, with regulations coming into force in October 2022; and the smoothing mechanism would be removed from legislation.

DC news

PLSA updates Retirement Living Standards

The Pensions and Lifetime Savings Association (PLSA) has updated its Retirement Living Standards. Launched in 2019, these are designed to help members understand how much money they will need to live the lifestyle they would like in retirement. They provide benchmark levels of annual income to fund three different standards of living — minimum, moderate and comfortable — which aim to provide a rule of thumb guide based on common costs for many people.

The standards have been updated to take into account changing attitudes following the COVID-19 lockdowns and the increased cost of living. The annual income needed to achieve the minimum living standard has increased since 2019 by £700 to £10,900 for a single person, and by £1,000 to £16,700 for a couple.

The PLSA's target is for 90% of active members to use the standards and for them to be used in member communications, including annual benefit statements. It is working with the Money and Pensions Service and the Pensions Dashboard Delivery Group to make the standards part of their work.

Action

Trustees should discuss the standards with their DC consultant to understand how they can be used to improve member retirement outcomes.

Inquiry into pension freedoms

Last year the Work and Pensions Committee (WPC) launched a three-part inquiry into the impact of the pension freedoms and the protection of savers.

In July 2021 the government responded to the first part of the inquiry, on pension scams and what more can be done to prevent them (as reported in the August edition of In Sight).

The WPC has now reported on part two, which looked at how savers are prepared and protected to move from saving for retirement to using their pension savings. The WPC concludes that although the extra freedoms introduced in 2015 have on balance been a success, many savers need more support than they currently receive. It recommends that the government sets a goal of at least 60% of people to be using Pension Wise or receiving paid-for advice when accessing their pension pots for the first time. And it suggests that the government should commit to a trial of automatic Pension Wise guidance appointments: one when a person accesses their pension for the first time and another at the age of 50, before they can access their pension.

In January the WPC launched the final part of the inquiry, focusing on what more needs to be done to help people plan and save for their retirement. Amongst other things, the inquiry has asked whether households have adequate pension savings for retirement, what advice and guidance people need, and how the government should support self-employed people to save for retirement. The deadline for written evidence is 2 February 2022.

Consolidation of DB schemes

The Pensions Regulator has named Clara Pensions as the first DB superfund to meet its standards of governance and administration, as part of the interim regime for DB consolidation. It warned that trustees and employers should still carry out their own due diligence to ensure they are confident a superfund is the right option for their particular scheme and members, and then only consider a superfund which is on its list. The Regulator also expects employers considering a superfund to approach it for clearance.

Separately, a regime of self-certificates for DB master trusts has been launched by the Pensions and Lifetime Savings Association (PLSA), to help scheme trustees and employers who may be considering DB master trusts to understand the key features. The self-certificates are a standard template allowing DB master trusts to provide information on their structure and how they operate. The template was designed by a DWP-led industry working group to raise awareness and, where appropriate, encourage take-up of DB master trusts. The PLSA notes that, while the self-certificates provide useful information about the DB master trust, they should not be used as an assessment of the quality of the scheme, and do not include all the information trustees would need to complete due diligence.

Pension Protection Fund

Final levy determination for 2022/23

The Pension Protection Fund (PPF) has published its final levy rules for 2022/23. Invoicing is due to begin in autumn 2022.

There is one change of note from the draft Levy Determination (on which we reported in the November edition of In Sight), which is that the PPF will limit the increase in a scheme's risk-based levy to 25%, compared with its 2021/22 levy, where this is due to changes in insolvency risk that have potentially arisen as a result of the pandemic. This will benefit only a minority of schemes, as the PPF estimates that more than 80% of schemes that pay a risk-based levy will see their levy reduce.

Actions and next steps

The main deadline for submitting information to the PPF will be midnight at the end of 31 March 2022.

All schemes / companies should review the information held by D&B to calculate insolvency risk if they have not already done so.

Trustees and companies should also consider obtaining an estimate of their potential 2022/23 levies and consider any appropriate mitigating action.

Court rulings on level of PPF benefits

Following the Court of Appeal's ruling in the related *Hughes* and *Hampshire* cases (see the August edition of In Sight), the PPF has confirmed that none of the parties involved would appeal the ruling further. In brief, the Court ruled that the PPF compensation cap is unlawful and has to be disapplied, but that the PPF's approach to determining whether a member's PPF compensation is at least 50% of the value of their original scheme benefits is appropriate.

Now that the legal process for these cases has ended, the PPF has:

- issued updated guidance on the various actuarial valuations that are carried out for PPF purposes, including Section 179 valuations which are used to calculate PPF levies — the removal of the PPF compensation cap means that (all else being equal) a scheme's levy will increase once it has carried out a Section 179 valuation, although for many schemes the increase may be quite small and could be outweighed by other factors.
- started to implement the ruling for individuals receiving PPF and FAS compensation — the PPF hopes to have completed the majority of this work by December 2022, although there is still some uncertainty over whether a six-year limit will apply for back payments.

The PPF has also confirmed that the implications of the separate 2019 *Bauer* ruling are still under consideration by the DWP and PPF.

News round-up

Pension contributions for directors

The Investment Association (IA) has published its *Principles of Remuneration for 2022*. These include an expectation that new executive directors should receive pension contribution rates aligned with those given to the majority of the company's workforce, and that contribution rates for incumbent directors should be aligned by the end of 2022.

The IA has noted that companies will receive red top warnings where these expectations are not met (this is the highest level of warning from the IA's Institutional Voting Information Service, which provides shareholders with corporate governance research to help with their voting decisions at Annual General Meetings). This is in line with its letter of last year except that it no longer refers to aligning pension contributions of 15% or more of salary — so a red top could now be issued even where director contributions are below 15%, if these are not aligned with the workforce and there is no credible action plan to do so by the end of 2022.

Action

Employers may need to review pension contribution rates offered to executive directors, and this may extend to other role-based contribution levels.

RPI challenge to go ahead

It has been reported in the press that the High Court has approved an application for judicial review of the decision to reform the Retail Prices Index (RPI) methodology.

Following consultation, HM Treasury and the UK Statistics Authority announced at the end of 2020 that the calculation of RPI is expected to change from February 2030. From then on, it will be calculated in line with the Consumer Prices Index including owner occupiers' housing costs (CPIH). CPIH inflation is expected to be materially lower than RPI inflation over the long term (and similar to CPI inflation).

The trustees of the BT Pension Scheme, Ford Pension Schemes and Marks and Spencer Pension Scheme applied for a judicial review of this decision, on the grounds that the implications have not been fully considered. The hearing is expected to take place in summer 2022.

Review of SPA

The government has launched its second review of State Pension Age (SPA), which is a requirement under the Pensions Act 2014. Its report must be published by 7 May 2023.

The first review in 2017 recommended that the increase from age 67 to 68 should take place between 2037 and 2039, seven years earlier than the currently legislated rise. This second review will consider a wide range of evidence to assess whether that increase remains appropriate.

GMP conversion Bill

The *Pension Schemes (Conversion of Guaranteed Minimum Pensions) Bill* was introduced in the House of Commons as a Private Members' Bill last year. In its second reading, on 26 November 2021, the government said that it would support the passage of the Bill through the parliamentary process – which is unusual for a Private Members' Bill. This means it is likely to obtain Royal Assent and ultimately result in amendments to the GMP conversion legislation.

The Bill is intended to clarify certain technical aspects of the existing legislation. Once it has Royal Assent, regulations will be required to provide further detail and set the implementation date for the amendments — we would expect these draft regulations to be subject to consultation.

GMP fixed rate revaluation

The DWP consulted until 18 November 2021 on reducing GMP fixed rate revaluation from 3.5% to 3.25% per annum for those who accrued GMP (before 6 April 1997) and leave pensionable service from 6 April 2022 to 5 April 2027. Fixed rate revaluation is generally reviewed every five years.

Fraud Compensation levy

The DWP has consulted on a change to the ceiling of the levy payable for the Fraud Compensation Fund for 2022/23 onwards.

The Fraud Compensation Fund is run by the PPF and can make payments in cases where the assets of a scheme have been reduced as a result of an offence involving dishonesty, including an intent to defraud. It is funded by a levy on all schemes eligible for this compensation, which is raised as and when needed.

The change would allow the PPF to set levy rates of up to £1.80 per member (65p for master trusts), significantly higher than the current ceiling of 75p (30p for master trusts). The Fraud Compensation Fund has estimated that it may receive claims totalling £350m from certain scam schemes following a recent High Court judgment; a loan from the government will allow it to meet these claims, and the intention is that resetting the levy rates will enable the PPF to repay this loan by 2030 to 2031.

Most DB and DC occupational schemes are required to pay this levy. At the time of writing, the consultation outcome is awaited, as is confirmation of the levy rates that will apply for 2022/23.

On the horizon

Here are some key future developments likely to affect pensions:

Early 2022

- DWP consultation on pensions dashboards
- Regulations on trustee oversight of investment consultants and fiduciary managers
- Regulator consultation on CDC code of practice

April 2022

- DC charge cap £100 de minimis limit for flat fees in combination charges
- Extension of notifiable events framework

Spring 2022

- DWP consultation on scheme funding regulations

June 2022

- DWP regulations and FCA rules for stronger nudge towards Pension Wise

August 2022

- Regulations underpinning CDC regime due to come into force

Summer 2022

- Earliest expected date for Regulator's single code of practice
- Regulator consultation on scheme funding code of practice

October 2022

- Climate-risk changes apply to next wave of schemes; and DWP proposes extending the requirements
- Simpler benefit statements introduced for DC schemes used for auto-enrolment

April 2023

- First wave of schemes expected to start connecting to pensions dashboard

April 2024

- Low earners in net pay schemes to receive top-up payments

Training and events

Dates currently scheduled for our pensions training seminars are set out below.

Please contact us to discuss your training needs: **pensionstraining.enquiries@aon.com**
You can find a copy of our training brochure and book online at: **www.aon.com/pensionstraining**

Pensions training courses	Dates	
Defined Benefit — part 1	23-24 February (webinar) 10 May (London)	12-13 July (webinar) 9 November (London)
Defined Benefit — part 2	16 June (London)	14 December (London)
Defined Benefit Trustee Essentials (two days)	23–24 March (Woking, Surrey)	11-12 October (Woking, Surrey)
Defined Contribution	2 March (London)	15 September (London)
Pension Governance Committee (half day)	27 April (webinar, a.m.)	23 November (London, a.m.)

Other events

Aon participates in a variety of sector-specific conferences and exhibitions as well as holding regular seminars, webinars, conferences and events focusing on key issues of client interest.

To find out more about our events, go here.

Contacts

If you have any questions on In Sight, please speak to your usual Aon consultant or contact:

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About Aon

Aon plc (NYSE:AON) is a leading global professional services firm providing a broad range of risk, retirement and health solutions. Our 50,000 colleagues in 120 countries empower results for clients by using proprietary data and analytics to deliver insights that reduce volatility and improve performance. For further information on our capabilities and to learn how we empower results for clients, please visit: http://aon.mediaroom.com/

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